

REMARKS

Claims 24-89 are pending in the present application. Claims 85-89 are canceled herein without prejudice. Since claims 85-89 depended from non-elected claims, claims 90 and 93 are added herein to restate claims 85 and 88 in proper independent format. Claims 91-92 depend from newly added claim 90 and claim 94 depends from claim 93. Support for these new claims can be found in claims 24-89 as filed, as well as throughout the specification. No new matter is believed to be added by these amendments. Therefore, applicants respectfully request entry of the new claims and allowance of the claims to issue.

In the restriction requirement, Examiner Lucas indicated that errors were made at the PTO when processing the preliminary amendments submitted by applicants. The Examiner has requested that applicants amend claims 42, 45, 47, 50, 57 and 60 to read as indicated in the September 25, 2001 amendment. Since it is unclear to applicants what amendments should be made to the claims in order to have them read as indicated in the September 25, 2001 amendment, applicants have provided a list of all claims as they should read for examination. If the Examiner would like specific amendments to be made to any of these claims, applicants respectfully request that the Examiner provide these claims, as they currently appear on the file record, and indicate which amendment, if any, should be made.

The Office Action requires restriction to one of the following four groups of claims:

Group I: Claims 24-40 and 65-69, drawn to modified M2 polypeptides, and claims 80-84 drawn to a first method of using the proteins (to determine the presence of anti-M2 antibodies in a subject.)

Group II Claims 41-64, drawn to DNA molecules and to compositions thereof, encoding modified M2 polypeptides.

Group III: Claims 70-74 drawn to antibodies to modified M2 polypeptide, and claims 75-79, drawn to a method of using the antibodies to prevent or treat an influenza A infection.

Group IV: Claims 85-89, drawn to a second method of use for the modified M2 polypeptides (to immunize a subject, and thereby produce antibodies).

Applicants provisionally elect Group IV. Applicants also wish to remind the Examiner of the guidelines for rejoinder of claims as set forth in M.P.E.P. § 821.04, as they apply to the pending claims of the instant application.

A Credit Card Payment Form PTO-2038 authorizing payment in the amount of \$84.00 representing the fee for a large entity under 37 C.F.R. § 1.16(b) (fee for one independent claim in excess of three independent claims) is enclosed. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

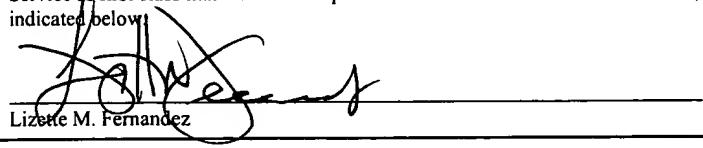


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Lizette M. Fernandez

7/17/03
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